

BEFORE THE OFFICE OF CAMPAIGN FINANCE
DISTRICT OF COLUMBIA BOARD OF ELECTIONS AND ETHICS
FRANK D. REEVES MUNICIPAL BUILDING
2000 14TH STREET, N.W., SUITE 420
WASHINGTON, D.C. 20009
(202) 671-0550

IN THE MATTER OF)
)
Benjamin M. Abalos)
Fed/State Disclosure Officer)
Office of the Chief Financial Officer)
1201 Braddock Place, #911)
Alexandria, Virginia 22314)

DATE: September 15, 2003

DOCKET NO.: 03F-001

ORDER

Statement of the Case

This matter came before the Office of Campaign Finance (hereinafter OCF) Office of General Counsel following a determination by its Public Information Records Management Division, that pursuant to the D.C. Official Code §1-1106.02 (2001 Edition), Benjamin M. Abalos, Fed/State Disclosure Officer, with the Office of the Chief Financial Officer, failed to timely file, a Financial Disclosure Statement for calendar year 2002, on or before May 15, 2003 as required by D.C. Official Code §1-1106.02 and also failed to file on or before the OCF sanctioned extended filing date of June 19, 2003.

By Notice of Hearing, Statement of Violations and Order of Appearance dated August 5, 2003, OCF ordered Benjamin M. Abalos (hereinafter respondent), to appear at a scheduled hearing on August 14, 2003 and show cause why he should not be found in violation of the D.C. Campaign Finance Reform and Conflict of Interest Act of 1974, as amended by D.C. Official Code §§1-1101.01 et seq., and fined accordingly.

Summary of Evidence

OCF alleges that respondent failed to timely file the statutorily required Financial Disclosure Statement for calendar year 2002, on or before June 19, 2003.

On August 14, 2003, the respondent appeared at the scheduled hearing and testified that his employment with the District Government terminated on April 4, 2003. Further, he stated that during the exit interview process, he presumed he had completed all of his obligations to the District, and that he was not informed of the requirement to file a Financial Disclosure Statement. At the hearing, the respondent presented a DC Personnel Form 1 evidencing his initial appointment to the position of Tax Auditor in the Office of the Chief Financial Officer on March 16, 1998; a letter dated August 7, 2000 confirming his promotion to the position of Federal/State Disclosure Officer effective July 30, 2000; a DC Personnel Form 52 evidencing his resignation on April 4, 2003; a DC Personnel Form 1 effecting his resignation on April 4, 2003; a copy of a Financial Disclosure Statement filed online on August 13, 2003; a Financial Disclosure Statement signed and notarized on August 13, 2003; and a written Statement in response to the allegation of violation of the Act.

Findings of Fact

Having reviewed the allegations and the record herein, I find:

1. Respondent resigned his employment with the District of Columbia Office of Tax and Revenue on April 4, 2003.
2. Respondent completed a Separation Clearance Form on April 5, 2003 during an exit interview, which did not list the requirement to file a Financial Disclosure Statement with OCF.
3. Respondent was required to file a Financial Disclosure Statement for calendar year 2002, on or before June 19, 2003, in accordance with D.C. Official Code §1-1106.02.
4. Respondent filed a Financial Disclosure Statement with OCF for calendar year 2002 on August 13, 2003.
5. Respondent stated he was not informed of the requirement to file a Financial Disclosure Statement upon termination of his employment.
6. OCF provided notice to respondent of the requirement to file if the filer ceases to serve prior to May 15th of any year on its Financial Disclosure Statement form.
7. Respondent provided a credible explanation for the filing delinquency in that he was not informed during his exit interview of the requirement to file a final FDS with OCF upon separation from government service.

8. Respondent is currently in compliance with the statute.

Conclusions of Law

Based upon the record provided by OCF, I therefore conclude:

1. Respondent violated D.C. Official Code §1-1106.02.
2. The penalty established at D.C. Official Code §1-1103.05(b)(3), and 3DCMR §§3711.2(aa), 3711.2 and 3711.4 for failure to timely file a Financial Disclosure Statement required by D.C. Official Code §1-1106.02, is a fine of \$50.00 per day for each business day subsequent to the due date.
3. In accordance with D.C. Official Code §1-1103.05(b)(3), the respondent may be fined a maximum of \$1,850.00 for failing to timely file a Financial Disclosure Statement.
4. For good cause shown pursuant to 3DCMR §3711.6, the Director of Campaign Finance (Director) may modify, rescind, dismiss or suspend any fine.
5. Respondent's explanation for failing to timely file constitutes good cause for suspension of the fine.

Recommendation

In view of the foregoing and information included in the record, I hereby recommend that the Director suspend the imposition of the fine in this matter.

Date

Jean Scott Diggs
Hearing Officer

Concurrence

In view of the foregoing, I hereby concur with the Recommendation.

Date

Kathy S. Williams
General Counsel

ORDER OF THE DIRECTOR

IT IS ORDERED that the fine in this matter be hereby suspended.

Date

Cecily E. Collier-Montgomery
Director

SERVICE OF ORDER

This is to certify that I have served a true copy of the foregoing order.

Rose Rice
Legal Assistant

NOTICE

Pursuant to 3DCMR §3711.5 (1999), any fine imposed by the Director shall become effective on the 16th day following the issuance of a decision and order, if the respondent does not request an appeal of this matter. If applicable, within 10 days from the effective date of this order, please make a check or money order payable to the D.C. Treasurer, c/o Office of Campaign Finance, Suite 420, 2000-14th Street, N.W., Washington, D.C. 20009.